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97TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 97-743

COMPLETED

DISAPPROVAL OF EXTENSION OF PRESIDENTIAL AUTHORITY TO WAIVE FREEDOM OF EMIGRATION REQUIREMENTS UNDER SECTION 402 OF THE TRADE ACT OF 1974 WITH RESPECT TO ROMANIA

AUGUST 12, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

ADVERSE REPORT

together with

SUPPLEMENTAL AND DISSENTING VIEWS

[To accompany H. Res. 521]

The Committee on Ways and Means to whom was referred the resolution (H. Res. 521) disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania, having considered the same, report unfavorably thereon, and recommend that the resolution not be adopted as referred to the Committee.

PURPOSE AND SUMMARY

House Resolution 521, introduced on July 13, 1982, would disapprove the recommendation of the President, transmitted to the Congress on June 2, 1982, to extend the waiver authority in section 402(c) of the Trade Act of 1974 with respect to the Socialist Republic of Romania for an additional 12 months.

Imports from the Socialist Republic of Romania are currently subject to column 1 (MFN) rates of duty under the Tariff Schedules of the United States (TSUS) effective on August 3, 1975, the date of implementation of the U.S.-Romanian trade agreement. On November 24, 1975, the President designated Romania as a beneficiary developing country eligible to receive duty-free treatment, effective January 1, 1976, on imports of GSP-eligible items.

Enactment of House Resolution 521 would result in the discontinuance of MFN and GSP treatment for Romania and restoration of the generally higher column 2 rates of duty under the TSUS application to non-MFN countries. In addition Romania would no longer be eligible for Government credits or investment guarantees.

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The United States-Romania bilateral trade agreement first took effect in August 1975, following passage by both Houses of Congress of a concurrent resolution approving the extension of nondiscriminatory (MFN) treatment to imported products from Romania under the waiver provision of title IV of the Trade Act of 1974. Section 402 of the act prohibits the granting of MFN treatment, Government credits or investment guarantees, or the negotiation of a commercial agreement with any communist country if that country does not allow its citizens the freedom to emigrate. Section 402 also permits the President to waive this prohibition for a limited period of time (subject to annual renewal) if he determines that doing so will promote freedom of emigration.

The President's authority to waive the emigration requirements of section 402 has been renewed in each of the six years following the initial granting of MFN to Romania. The first renewal of the President's waiver authority—in the fall of 1976—took place by operation of law. On June 2, 1976 the President recommended to the Congress that the authority be extended for a 12-month period. The Congress had the option to act affirmatively to extend or terminate the authority, or to permit by inaction the extension of the authority. Since both Houses failed to take affirmative action either prior to the termination date of the initial grant of authority (July 3, 1976) or within 60 days following the termination date, and since neither House passed a resolution disapproving the President's recommendation within the 45 days following the 60-day period (i.e. on or before October 15, 1976), the authority automatically extended until July 3, 1977. The Subcommittee on Trade held a hearing on September 14, 1976 on the President's request for renewal of the waiver authority, but took no further action.

In the case of additional extensions, the Trade Act provides less scope for congressional action than is the case for the initial recommendation for extension. The waiver authority extends, by operation of law, unless either House of Congress passes a disapproval resolution within 60 days after the termination date of the previous extension.

On June 3, 1977, the President recommended to the Congress a further one-year extension of the waiver authority and its application to Romania. On June 22, 1977, Congressman Larry McDonald introduced H. Res. 653, a resolution disapproving the extension of the waiver authority with respect to Romania. The resolution was reported adversely by the Subcommittee on Trade to the Full Committee on July 19, and reported adversely by the Committee on Ways and Means to the House on July 26, 1977. The House tabled the disapproval resolution on August 3, 1977.

On June 2, 1978 the President recommended to the Congress a further one-year extension of the waiver authority and its application to Romania and Hungary. Although products of Hungary did not benefit from MFN tariff treatment at this time, the President had transmitted to the Congress the text of the U.S.-Hungarian Trade Agreement for its approval. The Subcommittee held a hearing on June 15 and transmitted a report of its oversight activities to the House on September 26. Since no disapproval resolution was passed

by either the House or the Senate within the statutory period, MFN extended by operation of law until July 3, 1979.

On June 1, 1979, the President recommended to the Congress a further 1-year extension of the waiver authority and its application to Romania and Hungary. On June 14, Congressmen Richard T. Schulze, Larry McDonald, and Robert K. Dornan introduced H. Res. 317, a resolution disapproving the extension of the waiver authority recommended by the President with respect to Romania. The Subcommittee held hearings on the President's recommendation on June 22 and July 9. The full Committee on Ways and Means reported the resolution unfavorably on July 13. The House failed to pass the disapproval resolution by a vote of 126–271 on July 25.

On May 28, 1980, the President recommended to the Congress a further 1-year extension of the waiver authority and its application to Romania, Hungary, and China. Hearings were held on the President's recommendation on June 10. On August 22, 1980, Congressman Richard Schulze introduced H. Res. 775 to disapprove the extension of the waiver authority to Romania. No action was taken on that resolution.

On June 22, 1981, the Subcommittee on Trade of the House Ways and Means Committee held a hearing on the waivers for Romania, Hungary, and China. Neither the House nor the Senate adopted a resolution disapproving the grant of MFN trading status to Romania, Hungary, or the PRC.

On June 2, 1982, the President recommended to the Congress a further 1-year etension of waiver authority and its application to Romania, Hungary, and China. The President, however, expressed a reservation with respect to the granting of a waiver to Romania because Romanian Jewish emigration to Israel has dropped from a high of 4,000 in 1973 to the current level (1981) of 1,012, and because Romanian emigration procedures remain unsatisfactory. He has threatened to discontinue Romania's MFN for 1983 if this trend continues. On July 13, Congressman Rogert K. Dornan and Richard T. Schulze introduced H. Res. 521, a resolution disapproving the extension of the waiver authority recommended by the President with respect to Romania. Under the special expedited procedures of section 152(d) of the Trade Act of 1974, a motion to proceed to Floor consideration of the resolution is highly privileged and not debatable. The 60-day period for House consideration of House Resolution 521 expires on September 1, 1982.

COMMITTEE ACTION

The Subcommittee on Trade held public hearings on July 12 and July 13, 1982 on the continuation of MFN tariff treatment to the products of Romania, Hungary and the People's Republic of China. The Subcommittee received testimony from Administration officials, a Member of Congress, cultural and religious associations, corporations and private citizens in favor of continued MFN as necessary to improve economic and political relations with Romania. Representatives of human rights organizations, religious organizations and cultural organizations conditionally favored extension of MFN. The conditions

varied widely, e.g. emigration approval for particular cases, release of certain prisoners from jail, a general simplification of procedures, and improved treatment of the Hungarian minority in Romania. Several human rights, religious, and cultural groups; individuals; as well as Congressmen Dornan and Schulze (sponsors of H. Res. 521) opposed extension.

On August 10, 1982 the Subcommittee on Trade reported House Resolution 521 unfavorably to the Committee on Ways and Means by voice vote. On August 12, 1982 the Committee ordered House Resolution 521 reported unfavorably by a voice vote.

GENERAL STATEMENT

Emigration

In reporting House Resolution 521, the Committee on Ways and Means is very much aware of, and takes seriously, its obligations under the Trade Act to monitor closely the Romanian emigration situation. In carrying out this obligation, the Members of the Subcommittee and staff have met periodically with senior Executive Branch officials, representatives of private interests, and Romanian Embassy officials to review developments. The Subcommittee has held public hearings each year since 1976 to review Romanian emigration and trade performance. Moreover, the Subcommittee receives information on emigration from Romania to the United States on a weekly basis.

Since Most Favored Nation trading status was granted to Romania in 1975, the trend of Romanian emigration to the United States has increased from a low of 890 to a high of 2,886 in 1980. Emigration to the United States declined by 18 percent in 1981 to 2,352. The figures for the first six months of 1982 indicate a steady flow of Romanian immigrants to the United States, the total being slightly higher than the same period in 1981.

Romanian emigration to the Federal Republic of Germany has fluctuated from a low of 4,085 in 1975 to a high of 12,946 in 1980. The total number of emigrants to the Federal Republic of Germany from 1975 until 1981 was 51,565. The high level of emigration in 1980 (12,946) fell to more traditional levels in 1981 (8,619), representing a decrease of 33 percent.

Emigration from Romania to Israel remains below emigration levels which existed prior to extension of MFN. In 1981, emigration to Romania declined slightly from 1980 levels, falling to 1,012 from 1,061 the previous year. Immigrant visas issued by the Embassy of Israel in Bucharest for January through May 1982 totalled only 296. The Government of Romania claims, however, it issued 621 approvals for emigration during the 5-month period. That figure increased to 1,038 for the January–July period. The discrepancy can be partly explained by the lag time involved between approval for emigration and actual issuance of immigrant visas by the Israeli Embassy.

There is concern, however, that emigration levels are not satisfactory. President Reagan voiced those concerns in his recommendation for renewal of MFN treatment for Romania for 1982. Any evaluation of statistics on Romanian emigration to Israel must take into consideration that the Romanian Jewish community is relatively small (estimated at 35 to 40 thousand) and that a significant percentage

of the community is comprised of elderly individuals who probably do not wish to emigrate. However, there are strong indications that there is a sizable backlog of Romanian Jews seeking to emigrate to Israel. President Reagan cited at least 652 outstanding cases, some of which have remained unresolved for a long period of time.

The Government of Romania reports that 485 of those cases have been approved, 66 are in final stages of approval, and 60 are under active consideration. The remaining 41 cases, the Romanians report, consists of 3 persons who have died, 8 who have withdrawn their applications, and 30 persons who have never requested permission to leave Romania. The U.S. Embassy in Bucharest does believe that this information is accurate. What is not clear, however, is the primary reason for delays in departures following issuance of approval to emigrate by the Romanian Government.

United States-Romanian Trade Performance

U.S.-Romanian trade turnover edged up to a new high of $1.065 billion in 1981. U.S. exports declined from $722 million in 1980 to $504 million last year, while U.S. imports increased from $311 million to $561 million. These figures are a reflection of severe Romanian import-curtailing measures taken in response to its difficult hard-currency debt problem.

The decline in U.S. exports from 1980 to 1981 affected both manufactured goods and agricultural commodities. The largest decreases were in manufactures and machinery categories. The increases in U.S. imports from Romania were primarily in mineral fuels and machinery categories. Romania's second largest export to the U.S. in 1981 was iron and steel plates and sheets. Currently, imports of Romanian steel are subject to an antidumping investigation. The ITC preliminary determination was affirmative. Commerce issued a preliminary affirmative dumping determination on August 10, 1982. A final determination will be issued in October.

The United States has supported the expansion of its exports to Romania by extending financing programs (Eximbank and CCC) and by granting Romania both MFN tariff status and preferential tariff treatment (GSP). In 1981, $108.5 million worth of Romanian exports entered the United States duty free under GSP.

Conclusion

The Committee is of the view that extension of MFN trading status for Romania for another year is important to continued development and improvement of United States economic and political relations with Romania. The Government of Romania has indicated that it is prepared to begin discussions with appropriate American representatives beginning in September with a view toward reaching an understanding on emigration issues. The Committee hopes and believes that serious negotiations will take place between Romania and the U.S. that will result in improved emigration procedures.

It is the understanding of the Committee from correspondence received from the Embassy of Romania in Washington that it is the position of the Romanian Government constantly to improve emigration procedures and eliminate bureaucratic delays; that it is the firm desire of the Romanian Government to make further progress in im-

proving emigration procedures, including the question of reducing the processing time for applications; and that the Romanian Government has reaffirmed its position of not subjecting applications to discrimination. Further, it is the Committee's understanding that the Romanian Government will enter into upcoming bilateral discussions with a view to reaching an understanding on the above-mentioned issues.

Next year, the Committee's review will place strong emphasis on the progress of these discussions. The Committee's decision whether to renew the waiver will be influenced heavily by Romania's success in implementing substantial improvements in emigration procedures. We will look to progress in reducing the emigration application backlog and not obstructing the departure of those waiting nine months or more; simplifying and shortening emigration procedures including reduction of waiting time and repeal or removal of unreasonable pre-application procedures; and maintaining a consistent and steady consideration and approval of emigration applications to the U.S. and to Israel.

SUPPLEMENTAL VIEWS OF MR. VANDER JAGT

I share many of the reservations expressed by my colleagues over continuation of Most Favored Nation status for Romania.

There is little question in my mind that the policies of the Romanian Government are deserving of the criticism expressed in the hearings of the Subcommittee on Trade, as well as in private meetings with representatives of various organizations. Undoubtedly, there is much room for progress and improvement in the area of domestic human rights policies of the Romanian Government, particularly with regard to free emigration.

I joined with several of my colleagues from the Subcomittee on Trade in a letter last week to Ambassador Mircea Malitza, to express our concern over Romania's emigration policies and to seek assurances that improvements would be made. While I am somewhat encouraged by the prompt and positive response that has come from Ambassador Malitza, I continue to have reservations about the ultimate sincerity of the Romanian Government to provide its citizens the right of free emigration. I am especially concerned that the increase in favorable activity with respect to processing emigration requests coincides with our consideration of MNF status, and may be followed by a period of more restrictive policies and procedures.

Despite these concerns, I am not supporting the Resolution of Disapproval that has been introduced, H. Res. 521. President Reagan appropriately raised concerns over Romanian human rights and emigration policies when he recommended the extension of MFN status, and this Committee has similarly addressed emigration problems in our deliberations and in our Committee report. I am sure that the Government of Romania is now well aware of the deep concern over its emigration policies held by both the President and the Congress. The one year extension of MFN status will give Romania an opportunity to demonstrate in deeds that it does in fact intend to live up to its obligations under the Helsinki agreement, and permit free and open emigration of its citizens.

Denying MFN status to Romania at this time, which would result if H. Res. 521 were approved, would remove one of the few levers the United States and other interested parties has to influence the domestic policies of the Romanian Government, and could undermine efforts to improve the emigration situation. Lifting the favored trading status would also tend to drive Romania even further into the grip of the Soviet Union. If its trade with the United States is curtailed, as it surely would be if MFN status were lifted. Romania would be forced to turn to the Soviets and other communist nations for its trading needs, increasing its dependence on the Soviets and reducing our influence.

For these reasons, I urge that the Resolution of Disapproval, H. Res. 521, be rejected at this time, to hold Romania to its committment to improve human rights and emigration policy.

GUY VANDER JAGT.

DISSENTING VIEWS OF MESSRS. SCHULZE, CRANE AND ROUSSELOT

We, the undersigned members of the Ways and Means Committee, believe the President's recommendation for extension of Most-Favored-Nation privileges for Romania should be rejected. For this reason, we are supporting H. Res. 521, introduced by Mr. Dornan and Mr. Schulze. We urge its adoption on the House floor.

Section 402 of the Trade Act of 1974, generaly called the "Jackson-Vanik Amendment", prohibits the granting of MFN treatment, government credits or investment guarantees, or the negotiation of a commercial agreement with any communist country if that country does not allow its citizens the freedom to emigrate.

The specific requirements of the statute are that MFN will not be available if the country ". . . (1) denies its citizens the right or opportunity to emigrate; (2) imposes more than a nominal tax on emigration, for any purpose or cause whatsoever; or (3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice. . . ." Romania, during the last 12 months has not behaved consistently with the requirements of Section 402, and it is apparent that it never has.

Nevertheless, Section 402 also permits the President to waive the prohibition on the granting of MFN treatment, etc., for a limited period of time (subject to annual renewal) if he determines that doing so will promote freedom of emigration.

Either house of Congress may, by resolution, disapprove the Presidential waiver. This is what we urge our colleagues to do by voting in favor of H. Res. 521.

Year after year, we have heard voluminous testimony and received ever-increasing evidence that the Romanian government is not fulfilling its obligations with respect to the Helsinki Agreement, of which it is a signatory, not to mention its obligations to its people that are a matter of simple human decency.

The Romanian government continues to harass its people in order to crush the spirit of its citizens who would leave their homeland for destinations free of oppression. Emigration procedures have continued to discourage Romanians from applying for exit visas, or prosecuting their applications once they muster the courage to make the initial filing.

We are informed in the last several days that the onerous "pre-application" procedure, by which applicants incur the first wrath of their government and the local police, will be eliminated. We believe that this is a major improvement, if it in fact comes to pass. But, given Romania's track record over the years, we feel constrained to take a wait and see attitude. If some other procedure is instituted that has the same effect, or if the elimination is "delayed", then no real progress will have been made.

Certain celebrated cases have been resolved in recent weeks. A number of Christians have been released from prison, though their criminal record remains and will likely be a severe economic burden. We believe that possession of Christian song books, distribution of bibles,

and profession of faith are not acts of defiance which would endanger any regime, and urge the Romanian government to stop its ugly persecution of Christians.

Similarly, Jews who wish to emigrate to Israel and to other countries should not be deterred. While B'nai B'rith has indicated its support for continuance of MFN status, we have received substantial evidence of limitations on the exist of Jews and the discouragement by the government of the free practice of the Jewish faith.

In one particularly well known case, the Romanians have imprisoned an Orthodox priest for alleged violations of Romanian law. The priest, Father Calciu, was detained by the Romanian government in March of 1979 and has languished in Romanian prisons since then. His alleged association with the Christian Defense Committee of Pavel Nicolescu and the newly formed Romanian "Free Trade Union" were reasons given by officials as justification for the elimination of his freedom. Three years of repeated discussions involving members of Congress and high-ranking Romanian officials have brought promises but no results. Offers of release in exchange for tacit or explicit admission of guilt for actions that are not crimes cannot be taken as a good faith offer of release.

In addition to the issue of freedom of emigration, we continue to receive reports of human rights violations that are best described as the destruction of the Hungarian culture within the territory now governed by Bucharest. We, in the United States, well know the benefits to a society of cultural diversity. We believe that such diversity strengthens, rather than weakens, a nation. We believe that the Romanian government has failed to demonstrate concern for the basic human rights of its citizens and, for this reason, we are firm in our resolve that Romania should not be granted a continuance of Most-Favored-Nation status.

We do not suggest that the United States break off relations with Romania forever. Nor do we suggest that the U.S. initiate multilateral actions against Romania for its violations of human rights. Rather, we recommend that Congressional action be taken to revoke MFN status for the time being. This will provide the Romanians with evidence of Congressional resolve and commitment to human rights and common decency. In our view, the ball should be placed squarely in the Romanians' court.

RICHARD T. SCHULZE.
PHILIP M. CRANE.
JOHN H. ROUSSELOT.

ADDITIONAL DISSENTING VIEWS OF MR. SCHULZE

In addition to the human rights concern I have voiced with my colleagues who dissent from the report of the Committee, I wish to place in the record my views on activities of Romanian trade officials that have been brought to my personal attention.

In April, 1982, I received a letter from a constituent who operates a small high-technology firm in my Congressional district. He told a story of attempted bribery, extortion, and solicitation of criminal violation of federal statutes. An official of the Romanian government's Ministry of Foreign Trade was the offending representative.

In brief, the U.S. firm has sold resistors and connectors to a Romanian trading company, consistent with all U.S. requirements. The Romanians owed the firm over $100,000 for the sale, but the Romanian Bank for Foreign Trade, in concert with the Ministry of Foreign Trade, refused to make payment. When the American businessman visited Bucharest to try to secure payment of the debt and to consider future undertakings, he was approached by the Romanian official who tried to obtain integrated circuits without an export license. He wanted the American businessman to participate in this smuggling scheme in derogation of the national defense needs of the United States.

The businessman further informed me that the Romanian official was also very insistent that he write a letter to his Congressman in order to influence the U.S. Congress to retain Romania's Most-Favored-Nation status. The Romanian requested that a copy of the letter be sent to him. In return, he held out the promise of prompt payment of the $100,000 debt and millions of dollars in future illicit trade.

I am pleased to report to you that the businessman did not succumb to Romanian blackmail and that, in due course, he was paid the moneys owing to him. Further, on the same day that he wrote to me, he wrote to the Romanian authorities cancelling all their open orders and ceasing all business activities in Romania.

Shortly after receiving his letter, I met with this constituent and was persuaded of his honesty and the accuracy of his report. Upon my return to Washington, I advised the appropriate federal agencies of this incident.

I do not believe that there is anything that the Romanians could do that would persuade me to support Most-Favored-Nation status for the next year. Their attempt to extort the cooperation of a American businessman in an enterprise to pressure a member of Congress to use his vote to Romanian advantage is something I cannot ignore or forgive.

RICHARD T. SCHULZE.

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